

A NONSUBSTANTIVE REVISION  
OF STATUTES RELATING TO  
INSURANCE FEES AND TAXES, CONSUMER INTERESTS,  
HEALTH INSURANCE AND RELATED PRODUCTS, TITLE INSURANCE,  
AND INSURANCE INDUSTRY PROFESSIONALS

Submitted to the 78th Legislature  
as part of the  
Texas Legislative Council's  
Statutory Revision Program

Austin, Texas

2003

1 APPENDIX A

2 CONFORMING AMENDMENTS

3 SECTION 8. CONFORMING AMENDMENT. Article 1.10, Insurance  
4 Code, is amended to read as follows:

5 Art. 1.10. CERTAIN DUTIES OF THE DEPARTMENT. In addition  
6 to the other duties required of the department, the department  
7 shall perform duties as follows:

8 2. File Articles of Incorporation and Other Papers.  
9 File and preserve in its office all acts or articles of  
10 incorporation of insurance companies and all other papers required  
11 by law to be deposited with the Department and, upon application of  
12 any party interested therein, furnish certified copies thereof upon  
13 payment of the fees prescribed by law.

14 3. Shall Calculate Reserve. For every company  
15 transacting any kind of insurance business in this State, for which  
16 no basis is prescribed by law, the Department shall calculate the  
17 reinsurance reserve upon the same basis prescribed in Section  
18 862.102 of this code as to companies transacting fire insurance  
19 business.

20 4. To Calculate Re-insurance Reserve. On the  
21 thirty-first day of December of each and every year, or as soon  
22 thereafter as may be practicable, the Department shall have  
23 calculated in the Department the re-insurance reserve for all  
24 unexpired risks of all insurance companies organized under the laws  
25 of this state, or transacting business in this state, transacting  
26 any kind of insurance other than life, fire, marine, inland,  
27 lightning or tornado insurance, which calculation shall be in  
28 accordance with the provisions of Paragraph 3 hereof.

29 5. When a Company's Surplus is Impaired. No impairment  
30 of the capital stock of a stock company shall be permitted. No  
31 impairment of the surplus of a stock company, or of the minimum  
32 required aggregate surplus of a mutual, Lloyd's, or reciprocal  
33 insurer, shall be permitted in excess of that provided by this  
34 section. Having charged against a company other than a life

1 insurance company, the reinsurance reserve, as prescribed by the  
2 laws of this State, and adding thereto all other debts and claims  
3 against the company, the Commissioner shall, (i) if it is  
4 determined that the surplus required by Section 822.054, 822.202,  
5 822.203, 822.205, 822.210, 822.211, or 822.212 of this code of a  
6 stock company doing the kind or kinds of insurance business set out  
7 in its Certificate of Authority is impaired to the extent of more  
8 than fifty (50%) per cent of the required surplus for a capital  
9 stock insurance company, or is less than the minimum level of  
10 surplus required by Commissioner promulgated risk-based capital  
11 and surplus regulations, or (ii) if it is determined that the  
12 required aggregate surplus of a reciprocal or mutual company, or  
13 the required aggregate of guaranty fund and surplus of a Lloyd's  
14 company, other than a life insurance company, doing the kind or  
15 kinds of insurance business set out in its Certificate of Authority  
16 is impaired to the extent of more than twenty-five per cent (25%) of  
17 the required aggregate surplus, or is less than the minimum level of  
18 surplus required by Commissioner promulgated risk-based capital  
19 and surplus regulations, the Commissioner shall order the company  
20 to remedy the impairment of surplus to acceptable levels specified  
21 by the Commissioner or to cease to do business within this State.  
22 The Commissioner shall thereupon immediately institute such  
23 proceedings as may be necessary to determine what further actions  
24 shall be taken in the case.

25           6. Shall Publish Results of Investigation. The  
26 Department shall publish the result of an examination of the  
27 affairs of any company whenever the Commissioner deems it for the  
28 interest of the public.

29           17. Voluntary Deposits. (a) In the event any  
30 insurance company organized and doing business under the provisions  
31 of this Code shall be required by any other state, country or  
32 province as a requirement for permission to do an insurance  
33 business therein to make or maintain a deposit with an officer of  
34 any state, country, or province, such company, at its discretion,

1 may voluntarily deposit with the Comptroller such securities as may  
2 be approved by the Commissioner of Insurance to be of the type and  
3 character authorized by law to be legal investments for such  
4 company, or cash, in any amount sufficient to enable it to meet such  
5 requirements. The Comptroller is hereby authorized and directed to  
6 receive such deposit and hold it exclusively for the protection of  
7 all policyholders or creditors of the company wherever they may be  
8 located, or for the protection of the policyholders or creditors of  
9 a particular state, country or province, as may be designated by  
10 such company at the time of making such deposit. The company may,  
11 at its option, withdraw such deposit or any part thereof, first  
12 having deposited with the Comptroller, in lieu thereof, other  
13 securities of like class and of equal amount and value to those  
14 withdrawn, which withdrawal and substitution must be approved by  
15 the Commissioner of Insurance. The proper officer of each  
16 insurance company making such deposit shall be permitted at all  
17 reasonable times to examine such securities and to detach coupons  
18 therefrom, and to collect interest thereon, under such reasonable  
19 rules and regulations as may be prescribed by the Comptroller and  
20 the Commissioner of Insurance. Any deposit so made for the  
21 protection of policyholders or creditors of a particular state,  
22 country or province shall not be withdrawn, except by substitution  
23 as provided above, by the company, except upon filing with the  
24 Commissioner of Insurance evidence satisfactory to him that the  
25 company has withdrawn from business, and has no unsecured  
26 liabilities outstanding or potential policyholder liabilities or  
27 obligations in such other state, country or province requiring such  
28 deposit, and upon the filing of such evidence the company may  
29 withdraw such deposit at any time upon the approval of the  
30 Commissioner of Insurance. Any deposit so made for the protection  
31 of all policyholders or creditors wherever they may be located  
32 shall not be withdrawn, except by substitution as provided above,  
33 by the company except upon filing with the Commissioner of  
34 Insurance evidence satisfactory to him that the company does not

1 have any unsecured liabilities outstanding or potential policy  
2 liabilities or obligations anywhere, and upon filing such evidence  
3 the company may withdraw such deposit upon the approval of the  
4 Commissioner of Insurance. For the purpose of state, county and  
5 municipal taxation, the situs of any securities deposited with the  
6 Comptroller hereunder shall be in the city and county where the  
7 principal business office of such company is fixed by its charter.

8 (b) Any voluntary deposit held by the Comptroller or  
9 the Department heretofore made by any insurance company in this  
10 State, and which deposit was made for the purpose of gaining  
11 admission to another state, may be considered, at the option of such  
12 company, to be hereinafter held under the provisions of this Act.

13 (c) When two or more companies merge or consolidate or  
14 enter a total reinsurance contract by which the ceding company is  
15 dissolved and its assets acquired and liabilities assumed by the  
16 surviving company, and the companies have on deposit with the  
17 Comptroller two or more deposits made for identical purposes under  
18 this section or Article 4739, Revised Statutes, as amended, and now  
19 repealed, all such deposits, except the deposit of greatest amount  
20 and value, may be withdrawn by the new surviving or reinsuring  
21 company, upon proper showing of duplication of such deposits and  
22 that the company is the owner thereof.

23 (d) Any company which has made a deposit or deposits  
24 under this section or Article 4739, Revised Statutes, as amended  
25 and now repealed, shall be entitled to a return of such deposits  
26 upon proper application therefor and a showing before the  
27 Commissioner that such deposit or deposits are no longer required  
28 under the laws of any state, country or province in which such  
29 company sought or gained admission to do business upon the strength  
30 of a certificate of such deposit.

31 (e) Upon being furnished a certified copy of the  
32 Commissioner's order issued under Subsection (c) or (d) above, the  
33 Comptroller shall release, transfer and deliver such deposit or  
34 deposits to the owner as directed in said order.

1           ~~[18. Complaint File. The Department shall keep an~~  
2 ~~information file about each complaint filed with the Department~~  
3 ~~concerning an activity that is regulated by the Department or~~  
4 ~~Commissioner.~~

5           ~~[19. Notice of Complaint Status. If a written~~  
6 ~~complaint is filed with the Department, the Department, at least~~  
7 ~~quarterly and until final disposition of the complaint, shall~~  
8 ~~notify the parties to the complaint of the status of the complaint~~  
9 ~~unless the notice would jeopardize an undercover investigation.~~

10           ~~[20. Electronic Transfer of Funds. The Commissioner~~  
11 ~~shall adopt rules for the electronic transfer of any taxes, fees,~~  
12 ~~guarantee funds, or other money owed to or held for the benefit of~~  
13 ~~the state and for which the Department has the responsibility to~~  
14 ~~administer under this code or another insurance law of this state.~~  
15 ~~The Commissioner shall require the electronic transfer of any~~  
16 ~~amounts held or owed in an amount exceeding \$500,000.]~~

17           SECTION 9. CONFORMING AMENDMENT. Chapter 30, Insurance  
18 Code, is amended to read as follows:

19                       CHAPTER 30. GENERAL PROVISIONS

20           Sec. 30.001. PURPOSE OF TITLES 2, 3, 5, 6, 7, [AND] 8, 9, 11,  
21 AND 13. (a) This title and Titles 3, 5, 6, 7, [and] 8, 9, 11, and 13  
22 are enacted as a part of the state's continuing statutory revision  
23 program, begun by the Texas Legislative Council in 1963 as directed  
24 by the legislature in the law codified as Section 323.007,  
25 Government Code. The program contemplates a topic-by-topic  
26 revision of the state's general and permanent statute law without  
27 substantive change.

28           (b) Consistent with the objectives of the statutory  
29 revision program, the purpose of this title and Titles 3, 5, 6, 7,  
30 [and] 8, 9, 11, and 13 is to make the law encompassed by the titles  
31 more accessible and understandable by:

32                       (1) rearranging the statutes into a more logical  
33 order;

34                       (2) employing a format and numbering system designed

1 to facilitate citation of the law and to accommodate future  
2 expansion of the law;

3 (3) eliminating repealed, duplicative,  
4 unconstitutional, expired, executed, and other ineffective  
5 provisions; and

6 (4) restating the law in modern American English to  
7 the greatest extent possible.

8 Sec. 30.002. CONSTRUCTION. Except as provided by Section  
9 30.003 and as otherwise expressly provided in this code, Chapter  
10 311, Government Code (Code Construction Act), applies to the  
11 construction of each provision in this title and in Titles 3, 5, 6,  
12 7, ~~and~~ 8, 9, 11, and 13.

13 Sec. 30.003. DEFINITION OF PERSON. The definition of  
14 "person" assigned by Section 311.005, Government Code, does not  
15 apply to any provision in this title or in Title 3, 5, 6, 7, ~~or~~ 8,  
16 9, 11, or 13.

17 Sec. 30.004. REFERENCE IN LAW TO STATUTE REVISED BY TITLE 2,  
18 3, 5, 6, 7, ~~OR~~ 8, 9, 11, OR 13. A reference in a law to a statute  
19 or a part of a statute revised by this title or by Title 3, 5, 6, 7,  
20 ~~or~~ 8, 9, 11, or 13 is considered to be a reference to the part of  
21 this code that revises that statute or part of that statute.

22 SECTION 10. CONFORMING AMENDMENT. Subchapter B, Chapter  
23 36, Insurance Code, is amended by adding Section 36.108 to read as  
24 follows:

25 Sec. 36.108. FILING DATE OF REPORT, FINANCIAL STATEMENT, OR  
26 PAYMENT DELIVERED BY POSTAL SERVICE. Except as otherwise  
27 specifically provided, for a report, financial statement, or  
28 payment that is required to be filed or made in the offices of the  
29 commissioner and that is delivered by the United States Postal  
30 Service to the offices of the commissioner after the date on which  
31 the report, financial statement, or payment is required to be filed  
32 or made, the date of filing or payment is the date of:

33 (1) the postal service postmark stamped on the cover  
34 in which the report, financial statement, or payment is mailed; or

1           (2) any other evidence of mailing authorized by the  
2 postal service reflected on the cover in which the report,  
3 financial statement, or payment is mailed. (V.T.I.C. Art. 1.11  
4 (part), as amended Acts 77th Leg., R.S., Ch. 1419.)

5                           Source Law

6           Art. 1.11. If any report, financial statement,  
7 or payment required to be filed or deposited in the  
8 offices of the commissioner, or . . . is delivered by  
9 the United States Postal Service to the offices of the  
10 commissioner or . . . , as required, after the  
11 prescribed date on which the report, financial  
12 statement, . . . or payment is to be filed, the date of  
13 the United States Postal Service postmark stamped on  
14 the cover in which the document is mailed, or any other  
15 evidence of mailing authorized by the United States  
16 Postal Service reflected on the cover in which the  
17 document is mailed, shall be deemed to be the date of  
18 filing, unless otherwise specifically made an  
19 exception to this general statute.

20           SECTION 11. CONFORMING AMENDMENT. Subchapter B, Chapter  
21 36, Insurance Code, is amended by adding Section 36.109 to read as  
22 follows:

23           Sec. 36.109. RENEWAL EXTENSION FOR CERTAIN PERSONS  
24 PERFORMING MILITARY SERVICE. (a) The department may extend the  
25 renewal period for a license, permit, certificate of authority,  
26 certificate of registration, or other authorization issued by the  
27 department to engage in an activity regulated under this code or  
28 other insurance laws of this state for a person who is unable in a  
29 timely manner to comply with renewal requirements, including any  
30 applicable continuing education requirements, because the person  
31 was on active duty in a combat theater of operations in the United  
32 States armed forces.

33           (b) A person must submit a written application for an  
34 extension under this section to the department.

35           (c) The department shall exempt a person who receives an  
36 extension under this section from any increased fee or other  
37 penalty otherwise imposed for failure to renew in a timely manner.

38           (d) The commissioner may adopt rules as necessary to  
39 implement this section. (V.T.I.C. Art. 1.10-1.)



1

2  
3  
4  
5  
6  
7  
8  
9  
0  
1  
2  
3  
4  
5  
6  
7

## 8

9  
0  
1  
2  
3  
4  
5

6  
7  
8  
9  
0  
1  
2  
3  
4  
5  
6

7  
8  
9

$$\begin{matrix} 0 \\ 1 \\ 2 \end{matrix}$$

1 pendency of the appeal. An insurer shall use the rate provided in  
2 the order while the appeal is pending.

3 (b) The rate is lawful and valid during the appeal, and an  
4 insurer may not be required to make any refund from that rate after  
5 a decision on the appeal is rendered.

6 (c) If the order is vacated on appeal, the rate established  
7 by the commissioner before the vacated order was rendered remains  
8 in effect from the date of remand until the commissioner makes a  
9 further determination. The commissioner shall consider the court's  
10 order in setting a future rate. (V.T.I.C. Art. 1.35A, Sec. 5(d).)

11 Source Law

12 (d) Any order of the commissioner which  
13 determines, approves, or sets a rate under this code  
14 and is appealed shall be and remain in effect during  
15 the pendency of an appeal. During the pendency of the  
16 appeal, an insurer shall use the rate provided in the  
17 order being appealed. Such rate shall be lawful and  
18 valid during such appeal, and an insurer shall not be  
19 required to make any refund therefrom after a decision  
20 on the appeal. If a decision on appeal shall vacate  
21 the order, the rate established by the commissioner  
22 prior to the rendition of the vacated order shall be in  
23 effect from and after the date of remand and until the  
24 commissioner shall make a further determination;  
25 however, the commissioner shall consider the order of  
26 the court in setting future rates.

27 SECTION 13. CONFORMING AMENDMENT. Section 101.053(b),  
28 Insurance Code, is amended to read as follows:

29 (b) Sections 101.051 and 101.052 do not apply to:

30 (1) the lawful transaction of surplus lines insurance  
31 under Chapter 981;

32 (2) the lawful transaction of reinsurance by insurers;

33 (3) a transaction in this state that:

34 (A) involves a policy that:

35 (i) is lawfully solicited, written, and  
36 delivered outside this state; and

37 (ii) covers, at the time the policy is  
38 issued, only subjects of insurance that are not resident, located,  
39 or expressly to be performed in this state; and

40 (B) takes place after the policy is issued;

41 (4) a transaction:

1 (A) that involves an insurance contract  
2 independently procured through negotiations occurring entirely  
3 outside this state;

4 (B) that is reported; and

5 (C) on which premium tax is paid in accordance  
6 with Chapter 226 [~~this chapter~~];

7 (5) a transaction in this state that:

8 (A) involves group life, health, or accident  
9 insurance, other than credit insurance, and group annuities in  
10 which the master policy for the group was lawfully issued and  
11 delivered in a state in which the insurer or person was authorized  
12 to do insurance business; and

13 (B) is authorized by a statute of this state;

14 (6) an activity in this state by or on the sole behalf  
15 of a nonadmitted captive insurance company that insures solely:

16 (A) directors' and officers' liability insurance  
17 for the directors and officers of the company's parent and  
18 affiliated companies;

19 (B) the risks of the company's parent and  
20 affiliated companies; or

21 (C) both the individuals and entities described  
22 by Paragraphs (A) and (B);

23 (7) the issuance of a qualified charitable gift  
24 annuity under Chapter 102; or

25 (8) a lawful transaction by a servicing company of the  
26 Texas workers' compensation employers' rejected risk fund under  
27 Section 4.08, Article 5.76-2, as that article existed before its  
28 repeal.

29 SECTION 14. CONFORMING AMENDMENT. Section 101.103(a),  
30 Insurance Code, is amended to read as follows:

31 (a) If the commissioner has reason to believe a person,  
32 including an insurer, has violated or is threatening to violate  
33 this chapter or Chapter 226 or a rule adopted under this chapter or  
34 Chapter 226, or that a person, including an insurer, violating this

chapter or Chapter 226 has engaged in or is threatening to engage in an unfair act, the commissioner may:

- (1) issue a cease and desist order under Subchapter D;
- (2) seek injunctive relief under Section 101.105;
- (3) request the attorney general to recover a civil penalty under Section 101.105; or
- (4) take any combination of those actions.

SECTION 15. CONFORMING AMENDMENT. Sections 101.105(a) and (b), Insurance Code, are amended to read as follows:

(a) A person or entity, including an insurer, that violates this chapter or Chapter 226 is subject to a civil penalty of not more than \$10,000 for each act of violation and for each day of violation.

(b) The commissioner may request that the attorney general institute a civil suit in a district court in Travis County for injunctive relief to restrain a person or entity, including an insurer, from continuing a violation or threat of violation described by Section 101.103(a). On application for injunctive relief and a finding that a person or entity, including an insurer, is violating or threatening to violate this chapter or Chapter 226, the district court shall grant the injunctive relief and issue an injunction without bond.

SECTION 16. CONFORMING AMENDMENT. Section 101.201(b), Insurance Code, is amended to read as follows:

(b) This section does not apply to insurance procured by a licensed surplus lines agent from an eligible surplus lines insurer as defined by Chapter 981 [~~Article 1.14-2~~] and independently procured contracts of insurance, as described in Section 101.053(b)(4), that are reported and on which premium tax is paid in accordance with Chapter 225 or 226 [~~this chapter or Article 1.14-2~~].

SECTION 17. CONFORMING AMENDMENT. Subchapter C, Chapter 841, Insurance Code, is amended by adding Section 841.104 to read as follows:

1       Sec. 841.104. TAX PAYMENT REQUIRED FOR ISSUANCE OF CERTAIN  
2 CERTIFICATES OF AUTHORITY. (a) This section applies to a life  
3 insurance company that:

4           (1) has previously held a certificate of authority to  
5 engage in the business of life insurance in this state;

6           (2) ceased to write new business in this state under  
7 that certificate of authority; and

8           (3) after ceasing to write new business, continued to  
9 collect from residents of this state renewal or other premiums on  
10 policies written under that certificate of authority.

11       (b) A life insurance company to which this section applies  
12 may not obtain a new certificate of authority to engage in the  
13 business of life insurance in this state until the company:

14           (1) files with the department under oath a report that  
15 discloses the gross amount of renewal or other premiums received  
16 each calendar year from residents of this state after the period  
17 covered by the company's last tax report of gross premium receipts  
18 filed under this code; and

19           (2) pays to the state occupation taxes on those  
20 premiums.

21       (c) The life insurance company shall pay the occupation tax  
22 for each year of nonpayment. The company shall pay the tax for each  
23 year at the same rate for that year as a company engaged in the  
24 business of life insurance in this state during that year.

25       (d) The life insurance company shall remit the penalties for  
26 failure to pay the taxes and file required reports when the company  
27 pays the taxes and receives a certificate of authority. (V.T.I.C.  
28 Art. 3.59.)

29                   Source Law

30       Art. 3.59. Any life insurance company which has  
31 heretofore been, may now be, or may hereafter be,  
32 engaged in writing policies of insurance upon the  
33 lives of citizens of this State, which has heretofore  
34 ceased, or may hereafter cease writing such policies,  
35 and which does not now or may not hereafter have a  
36 certificate of authority to transact the business of  
37 life insurance in this State, but which has continued  
38 or may continue to collect renewal or other premiums

1 upon such policies, shall, before it may again obtain a  
2 certificate of authority to transact the business of  
3 life insurance in this State, report under oath to the  
4 Board of Insurance Commissioners the gross amount of  
5 premiums so collected from citizens of this State upon  
6 policies of insurance during each calendar year since  
7 the end of the period covered by the last preceding  
8 report by such company of gross premium receipts upon  
9 which it paid an occupation tax, and shall pay to the  
10 State a sum equal to the percentage of its gross  
11 premium receipts for each such year that was required  
12 by law to be paid as occupation taxes by companies  
13 doing business in this State, during such year or  
14 years; and, upon the payment of such sum and securing a  
15 certificate of authority to do business in this State,  
16 the penalties provided for the failure to pay such  
17 taxes and make such report in the past shall be  
18 remitted.

19 Revisor's Note

20 (1) V.T.I.C. Article 3.59 refers to a life  
21 insurance company "engaged in writing policies of  
22 insurance upon the lives of citizens of this State."  
23 The revised law substitutes "residents" for "citizens"  
24 because, in the context of that article, the terms are  
25 synonymous and the former is more commonly used. In  
26 addition, the revised law substitutes "engage in the  
27 business of life insurance in this state" for "writing  
28 policies of insurance upon the lives" of residents of  
29 this state because engaging in the business of life  
30 insurance in this state necessarily involves writing  
31 policies on the lives of residents of this state.

32 (2) V.T.I.C. Article 3.59 refers to the "Board  
33 of Insurance Commissioners." Under Chapter 499, Acts  
34 of the 55th Legislature, Regular Session, 1957,  
35 administration of the insurance laws of this state was  
36 reorganized and the powers and duties of the Board of  
37 Insurance Commissioners were transferred to the State  
38 Board of Insurance. Chapter 685, Acts of the 73rd  
39 Legislature, Regular Session, 1993, abolished the  
40 State Board of Insurance and transferred its functions  
41 to the commissioner of insurance and the Texas  
42 Department of Insurance, as appropriate. Therefore,  
43 the revised law substitutes "department" for "Board of

Insurance Commissioners."

SECTION 18. CONFORMING AMENDMENT. The heading to Subchapter C, Chapter 982, Insurance Code, is amended to read as follows:

SUBCHAPTER C. [~~REQUIREMENTS FOR~~] CERTIFICATE OF AUTHORITY

SECTION 19. CONFORMING AMENDMENT. Subchapter C, Chapter 982, Insurance Code, is amended by adding Section 982.114 to read as follows:

Sec. 982.114. PAYMENT OF TAX BY FOREIGN OR ALIEN LIFE INSURANCE COMPANY. (a) A foreign or alien life insurance company that obtains a certificate of authority under this subchapter on or after April 2, 1909, accepts that certificate and agrees to engage in the business of insurance in this state subject to a requirement that, if the company ceases to transact new insurance business in this state but continues to collect renewal premiums from residents of this state, the company shall continue to pay an occupation tax based on gross premiums for each year from residents of this state.

(b) The rate of the tax imposed by this section may not exceed the rate imposed by law on insurance companies transacting new insurance business in this state.

(c) The foreign or alien life insurance company shall pay the tax and make reports relating to its gross premium receipts in the same manner as a foreign or alien life insurance company that is transacting new insurance business in this state.

(d) The foreign or alien life insurance company is subject to examination by the department or by a department designee in the same manner and to the same extent as a company that is transacting new insurance business in this state. (V.T.I.C. Art. 3.25 (part).)

#### Source Law

Art. 3.25. Each life insurance company not organized under the laws of this State, hereafter granted a certificate of authority to transact business in this State, shall be deemed to have accepted such certificate and to transact such business hereunder subject to the conditions and requirements that, after it shall cease to transact new business in this State under a certificate of authority, and so long as it shall continue to collect

1 renewal premiums from citizens of this State, it shall  
2 be subject to the payment of the same occupation tax in  
3 proportion to its gross premiums during any year, from  
4 citizens of this State, as is or may be imposed by law  
5 on such companies transacting new business within this  
6 State, under certificates of authority during such  
7 year. The rate of such tax to be so paid by any such  
8 company shall never exceed the rate imposed by law upon  
9 insurance companies transacting business in this  
10 State. Each such company shall make the same reports  
11 of its gross premium receipts for each such year and  
12 within the same period as is or may be required of such  
13 companies holding certificates of authority and shall  
14 at all times be subject to examination by the Board of  
15 Insurance Commissioners or some one selected by it for  
16 that purpose, in the same way and to the same extent as  
17 is or may be required of companies transacting new  
18 business under certificates of authority in this  
19 State, the expenses of such examination to be paid by  
20 the company examined. . . .

21 Revisor's Note

22 (1) V.T.I.C. Article 3.25 refers to a life  
23 insurance company "not organized under the laws of  
24 this State." The revised law substitutes a reference  
25 to a "foreign or alien" life insurance company for  
26 consistency with the terms used in Chapter 982,  
27 Insurance Code. Section 982.001, Insurance Code,  
28 defines an "alien insurance company" to mean an  
29 insurance company organized under the laws of a  
30 foreign country and "foreign insurance company" to  
31 mean an insurance company organized under the laws of  
32 another state.

33 (2) V.T.I.C. Article 3.25 refers to a company  
34 "hereafter" granted a certificate of authority. The  
35 revised law substitutes "on or after April 2, 1909,"  
36 the effective date of the law from which Article 3.25  
37 was derived, for "hereafter."

38 (3) V.T.I.C. Article 3.25 refers to "citizens of  
39 this State." The revised law substitutes "residents"  
40 for "citizens" because, in the context of that  
41 article, the terms are synonymous and the former is  
42 more commonly used.

43 (4) V.T.I.C. Article 3.25 refers to the "Board  
44 of Insurance Commissioners." Under Chapter 499, Acts



1 of the 55th Legislature, Regular Session, 1957,  
2 administration of the insurance laws of this state was  
3 reorganized and the powers and duties of the Board of  
4 Insurance Commissioners were transferred to the State  
5 Board of Insurance. Chapter 685, Acts of the 73rd  
6 Legislature, Regular Session, 1993, abolished the  
7 State Board of Insurance and transferred its functions  
8 to the commissioner of insurance and the Texas  
9 Department of Insurance, as appropriate. Therefore,  
10 the revised law substitutes "department" for "Board of  
11 Insurance Commissioners."

12 (5) V.T.I.C. Article 3.25 provides for  
13 examination of a foreign or alien life insurance  
14 company with "the expenses of such examination to be  
15 paid by the company examined." The revised law omits  
16 the quoted language as unnecessary because Section  
17 (f), Article 1.16, Insurance Code, requires foreign or  
18 alien companies to pay the expenses of an examination.

19 (6) V.T.I.C. Article 3.25 refers to the duties  
20 of the board, comptroller, and attorney general in  
21 certifying and collecting taxes. The revised law  
22 omits the reference to the board (department) because  
23 Chapter 685, Acts of the 73rd Legislature, Regular  
24 Session, 1993, transferred the department's duties  
25 relating to administering and collecting insurance  
26 taxes to the comptroller. The revised law omits the  
27 reference to the comptroller and the attorney general  
28 because the duties of those officers in collecting  
29 insurance taxes are specified in other law, including  
30 the Insurance Code, the Tax Code, and the Government  
31 Code. The omitted law reads:

32 Art. 3.25. . . . The respective  
33 duties of the Board in certifying to the  
34 amount of such taxes and of the comptroller  
35 and Attorney General in their collection  
36 shall be the same as are or may be

prescribed respecting taxes due from companies authorized to transact new business within this State.

SECTION 20. CONFORMING AMENDMENT. Section 181.051, Health and Safety Code, is amended to read as follows:

Sec. 181.051. PARTIAL EXEMPTION. Except for Subchapter D, this chapter does not apply to:

(1) a covered entity as defined by Section 602.001  
~~[licensee as defined in Article 28B.01]~~, Insurance Code;

(2) an entity established under Article 5.76-3,  
Insurance Code; or

(3) an employer.

SECTION 21. CONFORMING AMENDMENT. Section 403.002(b), Labor Code, is amended to read as follows:

(b) The assessment may not exceed an amount equal to two percent of the correctly reported gross workers' compensation insurance premiums, including the modified annual premium of a policyholder that purchases an optional deductible plan under Article 5.55C, Insurance Code. The rate of assessment shall be applied to the modified annual premium before application of a deductible premium credit. (V.T.I.C. Art. 5.68, Sec. (b) (part).)

## Source Law

(b) For purposes of . . . Section 2.22, Texas Workers' Compensation Act (Article 8308-2.22, Vernon's Texas Civil Statutes), gross workers' compensation insurance premiums include the modified annual premium of a policyholder that purchases a deductible pursuant to Article 5.55C of this code, and the rate of assessment shall be applied to the modified annual premium prior to application of any deductible premium credit.

SECTION 22. CONFORMING AMENDMENT. Subtitle A, Title 3, Occupations Code, is amended by adding Chapter 107 to read as follows:

## CHAPTER 107. TELEMEDICINE AND TELEHEALTH

Sec. 107.001. DEFINITIONS. In this chapter:

(1) "Health professional" and "physician" have the  
meanings assigned by Section 1455.001, Insurance Code.

(2) "Telehealth service" and "telemedicine medical

1 service" have the meanings assigned by Section 57.042, Utilities  
2 Code. (V.T.I.C. Art. 21.53F, Secs. 1(2), (3), (4), (5), as added  
3 Acts 75th Leg., R.S., Ch. 880.)

4 Source Law

5 Art. 21.53F  
6 Sec. 1. In this article:

- 7 (2) "Health professional" means:  
8 (A) a physician;  
9 (B) an individual who is:  
10 (i) licensed or certified in  
11 this state to perform health care services; and  
12 (ii) authorized to assist a  
13 physician in providing telemedicine medical services  
14 that are delegated and supervised by the physician; or  
15 (C) a licensed or certified health  
16 professional acting within the scope of the license or  
17 certification who does not perform a telemedicine  
18 medical service.  
19 (3) "Physician" means a person licensed to  
20 practice medicine in this state under Subtitle B,  
21 Title 3, Occupations Code.  
22 (4) "Telehealth service" has the meaning  
23 assigned by Section 57.042, Utilities Code.  
24 (5) "Telemedicine medical service" has the  
25 meaning assigned by Section 57.042, Utilities Code.

26 Sec. 107.002. INFORMED CONSENT. A treating physician or  
27 health professional who provides or facilitates the use of  
28 telemedicine medical services or telehealth services shall ensure  
29 that the informed consent of the patient, or another appropriate  
30 individual authorized to make health care treatment decisions for  
31 the patient, is obtained before telemedicine medical services or  
32 telehealth services are provided. (V.T.I.C. Art. 21.53F, Sec. 4,  
33 as added Acts 75th Leg., R.S., Ch. 880.)

34 Source Law

35 Sec. 4. A treating physician or health  
36 professional who provides or facilitates the use of  
37 telemedicine medical services or telehealth services  
38 shall ensure that the informed consent of the patient,  
39 or another appropriate person with authority to make  
40 health care treatment decisions for the patient, is  
41 obtained before telemedicine medical services or  
42 telehealth services are provided.

43 Sec. 107.003. CONFIDENTIALITY. A treating physician or  
44 health professional who provides or facilitates the use of  
45 telemedicine medical services or telehealth services shall ensure  
46 that the confidentiality of the patient's medical information is  
47 maintained as required by Chapter 159 or other applicable law.

(V.T.I.C. Art. 21.53F, Sec. 5, as added Acts 75th Leg., R.S., Ch. 880.)

Source Law

Sec. 5. A treating physician or health professional who provides or facilitates the use of telemedicine medical services or telehealth services shall ensure that the confidentiality of the patient's medical information is maintained as required by Chapter 159, Occupations Code, or other applicable law.

Sec. 107.004. RULES. The Texas State Board of Medical Examiners, in consultation with the commissioner of insurance, as appropriate, may adopt rules necessary to:

(1) ensure that patients using telemedicine medical services receive appropriate, quality care;

(2) prevent abuse and fraud in the use of telemedicine medical services, including rules relating to the filing of claims and records required to be maintained in connection with telemedicine medical services;

(3) ensure adequate supervision of health professionals who are not physicians and who provide telemedicine medical services;

(4) establish the maximum number of health professionals who are not physicians that a physician may supervise through a telemedicine medical service; and

(5) require a face-to-face consultation between a patient and a physician providing a telemedicine medical service within a certain number of days following an initial telemedicine medical service only if the physician has never seen the patient.

(V.T.I.C. Art. 21.53F, Sec. 6(b), as added Acts 75th Leg., R.S., Ch. 880.)

Source Law

(b) The Texas State Board of Medical Examiners, in consultation with the commissioner, as appropriate, may adopt rules as necessary to:

(1) ensure that appropriate care, including quality of care, is provided to patients who receive telemedicine medical services;

(2) prevent abuse and fraud through use of telemedicine medical services, including rules relating to filing of claims and records required to be

maintained in connection with telemedicine medical services;

(3) ensure adequate supervision of health professionals who are not physicians and who provide telemedicine medical services;

(4) establish the maximum number of health professionals who are not physicians that a physician may supervise through a telemedicine medical service; and

(5) require a face-to-face consultation between a patient and a physician providing a telemedicine medical service within a certain number of days following an initial telemedicine medical service only if the physician has never seen the patient.

SECTION 23. CONFORMING AMENDMENT. Subchapter B, Chapter 171, Tax Code, is amended by adding Section 171.0525 to read as follows:

Sec. 171.0525. EXEMPTION--CERTAIN INSURANCE COMPANIES. A corporation that is a farm mutual insurance company, local mutual aid association, or burial association is exempted from the franchise tax. (V.T.I.C. Art. 4.10, Sec. 14.)

Source Law

Sec. 14. Farm mutuals, local mutual aid associations and burial associations are not subject to the franchise tax.

Revisor's Note

Section 14, V.T.I.C. Article 4.10, exempts farm mutual insurance companies, local mutual aid associations, and burial associations from the franchise tax. The revised law adds a reference to a corporation that is a farm mutual insurance company, local mutual aid association, or burial association because only corporations are subject to the franchise tax.

SECTION 24. CONFORMING AMENDMENT. Subchapter B, Chapter 171, Tax Code, is amended by adding Section 171.0527 to read as follows:

Sec. 171.0527. EXEMPTION--TITLE INSURANCE COMPANIES AND TITLE INSURANCE AGENTS. (a) In this section, "title insurance company" and "title insurance agent" have the meanings assigned by Section 2501.003, Insurance Code.

1        (b) A corporation that is a title insurance company or title  
2 insurance agent whose principal activity is the business of title  
3 insurance as described by Section 2501.005, Insurance Code, is  
4 exempted from the franchise tax. (V.T.I.C. Art. 9.59, Sec. 16(d)  
5 (part); (New).)

6                                Source Law

7                (d) . . . Provided, however, title insurance  
8 companies and title insurance agents whose principal  
9 activity is the business of title insurance are  
10 exempted from Chapter 171, Tax Code.

11                              Revisor's Note

12                Section 16(d), V.T.I.C. Article 9.59, exempts  
13 title insurance companies and title insurance agents  
14 from the franchise tax. The revised law adds a  
15 reference to a corporation that is a title insurance  
16 company or title insurance agent because only  
17 corporations are subject to the franchise tax.

18                SECTION 25. CONFORMING AMENDMENT. Chapter 171, Tax Code,  
19 is amended by adding Subchapter U to read as follows:

20                      SUBCHAPTER U. TAX CREDIT FOR CERTAIN PREMIUM TAXES

21                Sec. 171.891. APPLICABILITY OF DEFINITIONS.        In this  
22 subchapter:

23                      (1) "Control" has the meaning described by Sections  
24 823.005 and 823.151, Insurance Code.

25                      (2) "Controlled insurer," "domestic insurer," and  
26 "holding company" have the meanings assigned by Section 823.002,  
27 Insurance Code.

28                      (3) "Title insurance," "title insurance agent," and  
29 "title insurance company" have the meanings assigned by Section  
30 2501.003, Insurance Code. (V.T.I.C. Art. 9.59, Sec. 16(a); (New).)

31                              Source Law

32                Sec. 16. (a) The definitions for this section  
33 are the same as for Article 21.49-1 of this code.

34                              Revisor's Note

35                Section 16(a), V.T.I.C. Article 9.59, states that  
36 the "definitions for this section are the same as for

Article 21.49-1" of the Insurance Code. For purposes of Section 16, the relevant terms defined in Article 21.49-1 and revised as Sections 823.002 and 823.151 of the Insurance Code are "control," "controlled insurer," "domestic insurer," and "holding company." Also, the terms "title insurance," "title insurance agent," and "title insurance company" as used in Section 16 are defined in Article 9.02 of the Insurance Code and revised in Section 2501.003 of the Insurance Code. For the reader's convenience, the revised law lists the relevant terms and includes a reference to the sections of the revised law in which they are defined.

Sec. 171.892. ELIGIBILITY. A corporation is entitled to a credit as provided by this subchapter against the tax imposed under this chapter if the corporation:

(1) is a title insurance holding company subject to Chapter 823, Insurance Code; and

(2) controls one or more domestic title insurance companies that are subject to the tax on premiums imposed under Chapter 223, Insurance Code. (V.T.I.C. Art. 9.59, Sec. 16(b) (part).)

#### Source Law

(b) A title insurance holding company that is subject to Article 21.49-1, Insurance Code, and which controls one or more domestic title insurance companies that are subject to the tax on premiums under this article is entitled to a credit against its franchise tax imposed by Chapter 171, Tax Code. . . .

#### Revisor's Note

Section 16(b), V.T.I.C. Article 9.59, provides a franchise tax credit for certain title insurance holding companies. The revised law adds a reference to a corporation that is a title insurance holding company because only corporations are subject to the franchise tax.

1       Sec. 171.893. AMOUNT; LIMITATIONS. (a) The amount of the  
2 credit for each controlled domestic title insurance company is  
3 computed by multiplying the amount of tax on premiums paid by that  
4 company in the most recent calendar year ending before the  
5 franchise tax report is due by the percentage ownership of the title  
6 insurance holding company in the controlled domestic title  
7 insurance company. The percentage of ownership of a controlled  
8 domestic title insurance company is determined as of the accounting  
9 year-end on which the report is based.

10       (b) The total credit claimed under this subchapter may not  
11 exceed the amount of tax due for the report.

12       (c) A corporation may not carry a credit forward or backward  
13 to apply the credit to another year's report. (V.T.I.C. Art. 9.59,  
14 Secs. 16(b) (part), (c).)

15                               Source Law

16               (b) . . . The amount of the credit for each  
17 controlled domestic title insurance company is  
18 computed by multiplying the amount of tax on premiums  
19 paid by that controlled domestic title insurance  
20 company in the most recent calendar year ending before  
21 the franchise tax report is due, by the percentage  
22 ownership of the title insurance holding company in  
23 the controlled domestic title insurance company. The  
24 percentage of ownership of a controlled domestic title  
25 insurance company is determined as of the accounting  
26 year-end upon which the franchise tax report is based.

27               (c) A claim for a credit is subject to the  
28 following limitations:

29                       (1) if the total amount of the credit for  
30 all controlled title insurance companies exceeds the  
31 franchise tax due, the credit is an amount equal to the  
32 franchise tax due;

33                       (2) the minimum franchise tax must be  
34 paid; and

35                       (3) a credit may not be carried forward or  
36 backward and apply to another year's franchise tax  
37 report.

38                               Revisor's Note

39               Section 16(c)(2), V.T.I.C. Article 9.59, states  
40 that the "minimum franchise tax must be paid." The  
41 revised law omits that provision because the minimum  
42 franchise tax was eliminated by amendment of Section  
43 171.002, Tax Code, by Section 8.03, Chapter 5, Acts of  
44 the 72nd Legislature, 1st Called Session, 1991.



1       Sec. 171.894. EFFECT ON OTHER TAXES. This subchapter does  
2 not exempt a title insurance holding company, title insurance  
3 company, or title insurance agent from another tax imposed under  
4 this code. (V.T.I.C. Art. 9.59, Sec. 16(d) (part).)

5                   Source Law

6               (d) Nothing under this article may be construed  
7 to exempt title insurance holding companies, title  
8 insurance companies, or title insurance agents from  
9 paying any tax imposed under the Tax Code. . . .

10       SECTION 26. REPEALER. (a) The following Acts and  
11 articles as compiled in Vernon's Texas Insurance Code are repealed:

12               (1) 1.04B, 1.10C, 1.10D, 1.10-1, 1.11, 1.14-2, 1.20,  
13 1.21, 1.22, 1.31, 1.31A, 1.31B, 1.35, 1.35A, 1.35B, 1.35D, 1.35E,  
14 1.37, 3.25, 3.42, 3.42B, 3.42-1, 3.51-5A, 3.51-6, 3.51-6A, 3.51-6B,  
15 3.51-6C, 3.51-6D, 3.51-8, 3.51-9, 3.51-10, 3.51-12, 3.51-13,  
16 3.51-14, 3.59, 3.64, 3.70-1, 3.70-1A, 3.70-2, 3.70-3, 3.70-3A,  
17 3.70-3B, 3.70-4, 3.70-5, 3.70-6, 3.70-7, 3.70-8, 3.70-9, 3.70-10,  
18 3.70-11, 3.70-12, 3.70-13, 3.71, 3.72, 3.74, 3.76, 3.77, 3.78,  
19 3.79, 4.02, 4.03, 4.04, 4.05, 4.06, 4.07, 4.10, 4.11, 4.11B, 4.11C,  
20 4.12, 4.17, 4.18, 4.19, 5.12, 5.24, 5.49, 5.68, 5.91, 20A.01A,  
21 20A.01B, 20A.02, 20A.09B, 20A.09E, 20A.09F, 20A.09Y, 20A.09Z,  
22 20A.18C, 20A.18E, 20A.18F, 20A.18G, 20A.33, 20A.39, 21.01,  
23 21.01-1, 21.01-2, 21.02, 21.03, 21.04, 21.07, 21.07-2, 21.07-3,  
24 21.07-4, 21.07-6, 21.07-7, 21.08, 21.09, 21.10, 21.11, 21.11-1,  
25 21.12, 21.14, 21.14-1, 21.14-2, 21.15-1, 21.15-5, 21.15-6, 21.16,  
26 21.17, 21.18, 21.19, 21.20, 21.21, 21.21A, 21.21B, 21.21-1,  
27 21.21-2, 21.21-4, 21.21-5, 21.21-7, 21.21-8, 21.24-1, 21.24-2,  
28 21.24-3, 21.29, 21.35, 21.35A, 21.35B, 21.36, 21.46, 21.48, 21.48A,  
29 21.48B, 21.49-2, 21.49-2A, 21.49-2B, 21.49-2D, 21.49-2E, 21.49-9,  
30 21.49-10, 21.49-12, 21.49-19, 21.52, 21.52A, 21.52C, 21.52D,  
31 21.52J, 21.52K, 21.53, 21.53A, 21.53B, 21.53C, 21.53G, 21.53I,  
32 21.53K, 21.53L, 21.53M, 21.53N, 21.53Q, 21.53S, 21.53W, 21.55,  
33 21.56, 21.57, 21.58, 21.58D, 21.59, 21.60, 21.71, 21.73, 21.74,  
34 21.78, 21.79D, 21.79F, 21.79G, and 23.08A;

35               (2) 3.70-3C, as added by Chapter 1024, Acts of the 75th

1 Legislature, Regular Session, 1997;

2 (3) 3.70-3C, as added by Chapter 1260, Acts of the 75th  
3 Legislature, Regular Session, 1997;

4 (4) 20A.09, as amended by Chapters 163, 837, 905,  
5 1023, and 1026, Acts of the 75th Legislature, Regular Session,  
6 1997;

7 (5) 20A.09H, as redesignated and amended by Chapter  
8 396, Acts of the 77th Legislature, Regular Session, 2001;

9 (6) 20A.09H, as redesignated and amended by Chapter  
10 1027, Acts of the 77th Legislature, Regular Session, 2001;

11 (7) 20A.18D, as added by Chapter 550, Acts of the 77th  
12 Legislature, Regular Session, 2001;

13 (8) 21.07-1, as added by Chapter 213, Acts of the 54th  
14 Legislature, Regular Session, 1955;

15 (9) 21.07-1, as added by Chapter 703, Acts of the 77th  
16 Legislature, Regular Session, 2001;

17 (10) 21.21-6, as added by Chapter 415, Acts of the 74th  
18 Legislature, Regular Session, 1995;

19 (11) 21.21-6, as added by Chapter 522, Acts of the 74th  
20 Legislature, Regular Session, 1995;

21 (12) 21.21-9, as added by Chapter 596, Acts of the 75th  
22 Legislature, Regular Session, 1997;

23 (13) 21.21-9, as added by Chapter 1007, Acts of the  
24 75th Legislature, Regular Session, 1997;

25 (14) 21.52G, as added by Chapter 725, Acts of the 75th  
26 Legislature, Regular Session, 1997;

27 (15) 21.52G, as added by Chapter 955, Acts of the 75th  
28 Legislature, Regular Session, 1997;

29 (16) 21.52L, as added by Chapter 1074, Acts of the 77th  
30 Legislature, Regular Session, 2001;

31 (17) 21.52L, as added by Chapter 1106, Acts of the 77th  
32 Legislature, Regular Session, 2001;

33 (18) 21.53D, as added by Chapter 912, Acts of the 75th  
34 Legislature, Regular Session, 1997;

1           (19) 21.53D, as added by Chapter 1285, Acts of the 75th  
2 Legislature, Regular Session, 1997;

3           (20) 21.53F, as added by Chapter 683, Acts of the 75th  
4 Legislature, Regular Session, 1997;

5           (21) 21.53F, as added by Chapter 832, Acts of the 75th  
6 Legislature, Regular Session, 1997;

7           (22) 21.53F, as added by Chapter 880, Acts of the 75th  
8 Legislature, Regular Session, 1997; and

9           (23) 21.53F, as added by Chapter 1287, Acts of the 75th  
10 Legislature, Regular Session, 1997.

11         (b) The following laws are repealed:

12           (1) Subsections (a), (c), and (d), Article 1.04D,  
13 Insurance Code;

14           (2) Section 8, Article 1.14-3, Insurance Code;

15           (3) Subchapters J and K, Chapter 3, Insurance Code;

16           (4) Chapters 9, 24, 26, 27, 28A, and 28B, Insurance  
17 Code;

18           (5) Subchapter F, Chapter 101, Insurance Code; and

19           (6) Article 9031, Revised Statutes.

20         SECTION 27. LEGISLATIVE INTENT. This Act is enacted under  
21 Section 43, Article III, Texas Constitution. This Act is intended  
22 as a recodification only, and no substantive change in law is  
23 intended by this Act.

24         SECTION 28. EFFECTIVE DATE. This Act takes effect April 1,  
25 2005.